

AGENDA
WATER DISTRICT 170
2007 ANNUAL MEETING
Tuesday, March 13, 7:00 pm
Challis High School
Challis, ID

Call Meeting to Order	Gary Chamberlain
Selection of Meeting Chairman and Secretary	
Watermaster's Report	Nick Miller
– 2006 activities and costs, goals and activities for 2007	
– Legal Challenges update	
– Expansion of WD170	
Present Proposed Resolutions and Budget	Chairman
Revision/Adoption of Resolutions and Budget and Election of Watermaster	Chairman
Caucus Selection of Advisory Committee Members	Chairman
Other Items of Business	Chairman
Adjournment of Meeting	

**Water District 170
Annual Meeting Minutes
March 13, 2007
Challis, Idaho**

The meeting was called to order at 7:10 p.m. by Chairman Gary Chamberlain.

He announced a change in the agenda. Election of water district officers was moved to the end of the meeting.

Watermaster Report

Nick Miller summarized his activities in basins 71 and 72 during the last year and since he was appointed watermaster in December 2006. Almost 100% of the surface water diversions in basin 71 have been inventoried. A small percentage of surface water diversions have been inventoried in basin 72. Basin 72 will be the focus of inventory work this summer.

He reported IDWR has spent about 300 hours on WD 170 work. At \$32 an hour that is just under \$10,000.

He did an overview of the order (Order Requiring Measuring Devices and Head Gates in Water District 170, February 20, 2007) requiring that head gates and measuring devices be installed on designated diversions in basin 71 prior to diverting water in 2008. The order recognizes that some water users will need an extension of time because of the federal permitting process if their diversion is on U.S. Forest Service land.

A workshop will be held in April to inform water users about the types of equipment that are available and from where and to advise on what equipment is appropriate for certain types of streams or ditches.

A question was raised about the requirement in the order for water users to submit plans to IDWR describing the work proposed to bring a diversion into compliance. Mr. Miller said a plan must describe the equipment (head gate and/or measuring device), the size of the device, the material of which it is constructed, and where it will be located on the ditch. The plan requirement is to allow IDWR to review the project before someone spends time and money on an installation that does not meet standards.

Another question was raised about the frequency of measurements that will need to be reported. Mr. Miller said he would look again at the language in the Wild and Scenic Rivers and Nez Perce Water Agreements. The usual method is to take and record weekly measurements and to interpolate daily measurements. Power records usually can be substituted for measurements of wells, if set up correctly.

Tim Luke, IDWR, briefly described the legal challenge by Thompson Creek Mine to being included in the water district. Many of the water users in the district have received the legal notices and filings. The case is pending in district court.

USFS Special User Permit Update

Bob Kenworthy said the USFS has an agreement with the U.S. Fish and Wildlife Service and N.O.A.A., that it can issue special use permits for head gates and measuring devices alone, not addressing the issue of stream flow. Before a special use permit can be issued, the agency must go through federal processes to assess potential effects to terrestrial endangered species and to archaeological resources. These site-specific reviews will make it difficult for users with diversions on USFS lands to comply with the deadlines in the order.

USFS personnel will be part of the April workshop to help people with special use permit applications.

The question was raised that if someone has a special use permit in process, do they need to abandon that and apply for a new permit. Mr. Kenworthy said there are a number of considerations and that it is impossible to answer either “yes” or “no.” Each permit and ditch bill easement application needs to be looked at separately.

He urged water users to get their special use permit applications to the USFS as early as possible so staff can prioritize and cluster the work that needs to be done.

Dave Rosencrantz from the BLM said the permit process is different for that agency. The BLM can permit an upgraded diversion on BLM land without going through lengthy federal processes as long as it will be in the existing area of disturbance.

Resolutions

Chairman Chamberlain read the resolutions aloud, as most attendees had not had the opportunity to read them prior to the meeting. The resolutions are attached to these minutes.

Jim Hawkins moved and Cheryl Chadwick seconded a motion to adopt the resolutions. The motion passed.

Nick Miller has been appointed watermaster by the director of IDWR for the ensuing year. IDWR will cover the cost of watermaster services for the ensuing year.

Nick Miller
WD 170 Watermaster
Idaho Department of Water Resources
322 E. Front Street
P.O. Box 83720
Boise, Idaho 83720-0098
(208) 287-4956
fax (208) 287-6700
Nick.Miller@idwr.idaho.gov

Elections

Jack Challis made a motion and Lyle Hutchinson seconded it, to reelect Gary Chamberlain as WD 170 chairman. The motion passed.

Rick Philps made a motion and Mark Henslee seconded it, to reappoint the members of the Advisory Committee. The motion passed.

Advisory committee members elected at the annual meeting are:

Basin 71: Pat Brady, Mark Henslee, Jay Neider

Basin 72 sub-districts:

Garden Creek – Alan Henderson;

Challis Creek – Jack Challis;

Morgan Creek – Jim Hawkins

Basin 72 non sub-district area: Gary Chamberlain, Mike Cutler

Basin 71 and 72 commercial/industrial/municipal/other uses: Bert Doughty, Thompson Creek Mine; a representative from the City of Challis

USFS: ask the agency to appoint a representative to the advisory committee

BLM: ask the agency to appoint a representative to the advisory committee

2008 Annual Meeting

The 2008 annual meeting will be:

Jan. 22, 2008

7 p.m.

Custer County Courthouse

(Lura Baker works at the courthouse and will reserve the meeting room. 879-2360 (office), 838-2318 (home).)

There was a discussion about the meeting date. Some attendees like the March meeting date because the roads tend to be better. Other attendees prefer a January meeting date because there are fewer conflicts with calving and it allows more time for the subdistricts to set a budget after the WD 170 meeting. Timing will become an issue if IDWR no longer covers the cost of the WE 170 watermaster.

Paul May made the motion and Clive Dunfee seconded, to move the annual meeting date to March in 2008. The motion failed.

The meeting adjourned at 8:25 p.m.

Respectfully submitted,
Mary G. McGown, Secretary

Decisions are in boldface type.

Upper Salmon Water District No. 170

ADOPTED RESOLUTIONS

RESOLUTION REGARDING DISTRICT BYLAWS

The Idaho Department of Water Resources (IDWR) Watermaster Handbook and related Idaho Statutes (both as may be duly amended from time to time) and Resolutions as duly approved by the water right owners of the District shall serve as the Upper Salmon Water District No. 170 Bylaws.

RESOLUTION OF OFFICER AUTHORITY

Upon being duly elected by water right owner majority vote at their Annual Meeting the Secretary/Treasurer shall, until replaced by subsequent majority vote of the water right owners in their Annual Meeting or special meeting called for such purpose, have full authority to sign on behalf of the District including, but not limited to, the District bank account(s). The Chairman and Watermaster shall also have alternate signature authority for the District bank account(s).

RESOLUTION OF DISTRICT PAYMENT TERMS

1. Annual Adopted Budget payment shall be payable on or before March 1; any other billing within thirty (30) days following such billing; the postmark date will be considered the date of payment.
2. If not paid by April 1st the water user shall be charged in accordance with Statute 42-613 which provides for a Late fee of 10% of the amount due and interest of 1% per month.
3. If not paid in full (partial payments shall not be acceptable) including Late Fee by April 1st, Treasurer shall so inform the Watermaster who shall immediately terminate water delivery to the water right owner who is in payment default.
4. Treasurer must thereafter receive the original invoice amount, Late Fee(s) plus a \$25.00 Watermaster Service Fee before Treasurer shall advise the Watermaster who shall then again deliver the applicable right(s).
5. A returned or insufficient fund check shall require the Treasurer to so advise the Watermaster who shall immediately terminate the appropriate water delivery. All monies originally due plus applicable bank charges and any charges then resulting from unmet District payment terms must be paid in cash, cashier's check or money order before Treasurer shall so advise the Watermaster who shall then deliver the appropriate water right(s).
6. In the event payment in full is not received by the end of the then current irrigation season (or sooner if the Treasurer determines sale of the property and associated water right[s] is imminent), the Treasurer may, on behalf of the District, initiate legal action in Small Claims Court against the water right owner(s). Eventual recovery is to include costs incurred by such action as well as all other monies due.

Note: When a water delivery termination is imminent and there are others utilizing the same diversion that could be affected, those others affected shall, whenever possible, be advised of said delivery termination as soon as possible after the problem arises so they shall have the opportunity, if they so desire, to deal with the matter as they may deem appropriate before water delivery is reduced by the amount covered by the applicable right(s) being terminated.

RESOLUTION REGARDING MINIMUM USER FEE

Until changed by subsequent Resolution or otherwise altered by majority vote of the water right owners in their Annual Meeting or special meeting called for such purpose, it is herewith resolved that the Minimum User Fee shall be \$50.00 per water right owner in accordance with the maximum amount allowed by Idaho Statue.

RESOLUTION REGARDING WATER RIGHT OWNERSHIP BY MULTIPLE PARTIES

Any water right(s) owned by more than one individual (or married couple) shall declare a single individual (or married couple) who shall represent all other owner's interests and be the primary contact with the District on relevant District issues.

RESOLUTION REGARDING PROXY VOTING & SUBORDINATED WATER RIGHT(S)

1. In accordance with District Bylaws proxy votes shall not be allowed "except that in the absence of the owner a right may be voted by another person present who has the use of the right for the ensuing season, such as a tenant, lesser or contract purchaser".
2. In such case(s) or whenever a right is subordinated and/or "worked" by anyone other than the owner a form adopted and provided by the District shall be completed and returned to the Secretary/Treasurer to remain on file throughout the term stating with whom such agreement exists, whether such voting right is granted, and/or granting authority to represent the water right owner on any other water issues that may arise during the irrigation season or balance of the agreement term to be recorded by water right owner with the County Recorder of jurisdiction.

RESOLUTION OF ANNUAL MEETING DATE

Until changed by subsequent Resolution or otherwise altered by majority vote of the water right owners in their Annual Meeting or special meeting called for such purpose, it is herewith resolved that the Water district 170 Annual Meeting shall be the fourth (4th) Tuesday in January on a date, time and place to be determined at the Annual Meeting each successive year.

RESOLUTION OF OFFICER'S ELECTION

Until changed by subsequent Resolution or otherwise altered by majority vote of the water right owners in their Annual Meeting or special meeting called for such purpose, it is herewith resolved that District Officers shall be elected at the end of each Annual Meeting allowing incumbents to conduct the entire meeting and Agenda business prior to any potential change(s).

RESOLUTION REGARDING 2007 WATERMASTER

IDWR shall be elected to provide the Watermaster and Secretary/Treasurer services for the USWD and that the Director name and appoint Department employees to serve for the ensuing year at no expense to the USWD.

RESOLUTION REGARDING ADVISING COMMITTEE STRUCTURE

An Advisory Committee shall be elected to provide input to the watermaster and the Director of IDWR. The advisory committee for the ensuing year shall be comprised as follows:

(to be selected at 2007 meeting, 2006 members are shown for reference)- All 2006 members were re-appointed in 2007

Basin 71 irrigation representative(s) (3)

Pat Brady

Mark Henslee

Jay Neider

Basin 72 sub-districts, one each (3 total)

Garden Creek – *Alan Henderson*

Challis Creek – *Jack Challis*

Morgan Creek – *Jim Hawkins*

Basin 72 non sub-district area irrigation (2)

Gary Chamberlain

Mike Cutler

Basin 71 & 72 commercial/industrial/municipal/other uses (3)

Bert Doughty, Thompson Creek Mine

City of Challis

US Forest Service (1)

To be appointed by the agency

US Bureau of Land Management (1)

To be appointed by the agency

Non-Voting members from Basins 73-75

Advisory committee will ask for representatives from those basins.

Seats may be added to or subtracted from the Advisory Committee in subsequent years depending on further revisions or expansions of the district boundaries to be determined as necessary. Each group represented may also select an alternate for each seat. Candidates will be voted on at caucus during the annual meeting. The advisory committee will meet as often as needed to address the structure, governance and operation of the district. Decisions or recommendations of the Advisory Committee must be made with a minimum of two-thirds of the members in attendance and a majority of those Advisory Committee members present in favor.

WATERMASTER JOB DESCRIPTION

Manage the Water District in accordance with IDWR guidelines serving on an annual basis

Coordinate with the Secretary/Treasurer in:

- Preparation and maintenance of District budgets
- Preparation and collection of assessments
- Provide documentation for Treasurer's payment of duly incurred expenses

Hire, train and supervise sub-district Watermasters and other employees of the District as may be required

Operate, maintain and/or supervise the operation of all office and field equipment utilized by the District

Analyze water measurement data and apply the data to make water delivery determinations in accordance with IDWR guidelines

Maintain a means compatible with IDWR that will provide for updating ownership records utilized by both the District and IDWR

Coordinate with IDWR to analyze spatial data including use of GIS for monitoring irrigated place of use, calculating area incorporating GPS data

Conduct water rights administration enforcement actions including:

- Distribute water to rights in accordance with IDWR direction using information provided by IDWR based upon decrees, partial decrees, Director's Reports, permits, licenses and transfers
- Curtail out-of-priority diversions determined by IDWR to be causing injury to senior water rights that are not covered by a stipulated agreement or mitigation plan approved by IDWR
- Curtail unauthorized or excessive diversions
 - ✓ Utilize a database compatible to IDWR including functional spatial interface to assist on the location and tracking of illegal diversions
 - ✓ Be capable of regulating water rights by both point of diversion and place of use
 - ✓ Be capable of assisting IDWR to issue and follow-up on Notices of Violation as required and following other curtailment provisions in accordance with instructions by IDWR
- Curtail diversions for which assessments have not been paid

Conduct District reporting in a format and medium approved by IDWR or in accordance with instructions from IDWR including:

- Quarterly reporting of usage in Water District No. 170
- An annual report showing:
 - ✓ Water usage of each user by diversion
 - ✓ Mitigation plans for ground water rights diverting out of priority
 - ✓ Expenses and budget for the District plus apportionment of expenditures among water right owners
 - ✓ Unauthorized and excessive diversions
 - ✓ Other information as deemed necessary by the Director of IDWR
- A proposed and adopted annual budget for the following year including an annual work plan
- Posting District information to the internet in coordination with IDWR

As an annual position be committed to the hours necessary to do the job realizing longer hours during the irrigation season will be necessary

Strive to maintain good working relationships with water users, Advisory Committee, IDWR and other agencies

Maintain, operate and be able to be proficient in computer software and hardware that is compatible with IDWR systems

Communicate in writing and orally and, when necessary, coordinate periodic meetings with IDWR, Advisory Board members, water users and representatives of the federal government regarding management goals and progress of the District and implementation of the Wild & Scenic Rivers Agreement stipulations

Record and submit monthly to the Secretary/Treasurer an ongoing written log of hours worked (including a corresponding record of vehicle mileage incurred) with a brief description of work completed which shall be submitted annually (or upon request) to the Advisory Board and/or water right owners (upon written request); upon receipt of such acceptable record remuneration shall be calculated and paid accordingly by the Secretary/Treasurer

The Watermaster shall function as Contract Labor thus responsible for all employment and income taxes

SECRETARY/TREASURER JOB DESCRIPTION

Record and maintain a permanent record of the Minutes of the Annual Meeting and, if adopted, any Resolutions approved during such Meetings (a Certified Copy of said Minutes and, when adopted, Resolutions shall be forwarded to IDWR); and any and all special water right owners meetings and/or Advisory Committee Meetings

Coordinate with the Watermaster to:

- Prepare and submit an Adopted Budget
- Conduct a fair and equitable annual assessment billing
- Pay Sub-District obligations duly incurred

Comply with State Insurance Fund Workman's Comp requirements

Prepare an annual financial report in accordance with IDWR guidelines and provide for independent financial audits in accordance with minimum requirements of Section 67-450B

Maintain an ongoing log of hours worked (including a corresponding record of vehicle mileage incurred) with a brief description of work completed which shall be maintained on file for review by the Advisory Committee (submitted the end of each irrigation season or upon request) and/or to any water right owners (upon written request)

Retain the monthly work records of the Watermaster submitted with each month's flow records for review by the Advisory Committee (submitted the end of each irrigation season or upon request) and/or the water right owners (upon written request)

Maintain an amicable working relationship with IDWR via telephone, email, and/or in writing on an ongoing basis as dictated by necessity

Work with water right owners via telephone, in writing, and, whenever possible, via email on an ongoing basis as dictated by necessity

Prior to each year's Annual Meeting, provide all water right owners with an Agenda, copy of the prior year's Annual Meeting Minutes, Treasurer's Report with Income and Expense Breakdown and anything else deemed appropriate for water right owner review prior to an upcoming Annual Meeting

The Secretary/Treasurer shall function as Contract Labor thus responsible for any and all employment and income taxes; a 1099-MISC IRS filing shall be made annually by the Secretary/Treasurer for such Contract Labor remuneration (including that of the Watermaster and, when applicable, Ditch Rider) with respective copies provided as dictated by IRS filing requirements